

MODEL CRIMINAL PROCEDURE

Petition to Modify Bifurcated Sentence (Geriatric/Terminal) **§302.113(9g)**

Pursuant to sec. 302.113(9g)(b), Stats., a sentenced person may petition the sentencing court for modification of his/her bifurcated sentence for a crime other than a Class A or B felony, if specific criteria are met. Initially the Department of Corrections Program Review Committee reviews the Petition to Modify Bifurcated Sentence (Geriatric/Terminal), Form CR-254. If the Program Review Committee approves the petition for referral, the petition will be referred to the sentencing court. The Department of Corrections will complete Form CR-255, Referral by Department of Corrections to Sentencing Court, to accompany the petition. A copy of the decision issued by the Program Review Committee will also be sent to the court.

All forms referred to in this procedure are state mandated forms, and are available on the Circuit Court forms website.

1. Receive file/date stamp the petition, referral, and decision, and enter as court event PMBS, RDOC and DPRC.
2. The court shall set a hearing and provide copies of the documents to the District Attorney's Office. If the inmate is not represented by counsel, provide copies of the documents to the State Public Defender's Office for determination of indigency and appointment of counsel.

NOTE: Set the hearing far enough in advance to allow time for victim notification and transport of the inmate.

3. Pursuant to sec. 302.113(9g)(g)2, Stats., if the victim has submitted the Victim Notification Card, Form CR-240, the clerk is required to send a notice of hearing, together with copies of the petition, referral and decision of the Program Review Committee, to the last known address of the inmate's victim(s), postmarked at least 10 days before the date of the hearing. The clerk must indicate the manner in which the victim may provide a statement concerning the modification and inform the victim of the right to appear at the hearing.

NOTE: This could be accomplished by adding language to the additional text portion of the notice of hearing. Even though notification is the statutory responsibility of the clerk's office, it is suggested that the clerk establish a procedure with the victim/witness specialist to accomplish victim notification.

NOTE: All court records or portions of records that relate to mailing addresses of victims are not subject to inspection or copying under s. 19.35(1). Each county should develop a procedure to comply with this section of the statute.

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4. The court may grant or deny the petition. Complete an Order Concerning Sentence Modification, CR-256.
 - a. If the court denies the petition, enter the order denying the petition as OCSM.
 - b. If the court grants the petition, enter the order granting the petition as OCSM and prepare an Amended Judgment of Conviction (JOC), CR-212A.